

REMARKS

Claim 1 stands rejected under §102 in view of US 3,780,724 of John.

This reference relates to a device for testing neuronal responses to visual, acoustic or tactile stimuli (cf. column 1, lines 8 to 11). In particular, the John device is designed to test an infant or a person unable to speak due to injury or other causes and to determine the likelihood of mental retardation (cf. column 1, lines 20 to 28).

Section 4 of the Office Action states that column 7, line 44 to column 8, line 9 of John discloses the application of a periodic succession of pulses to control the phase dynamic of a neuronal rhythmic activity and a desynchronization pulse following the periodic succession of pulses to desynchronize the neuronal rhythmic activity. This is not so because columns 7 and 8 of John describe a method of testing the short-term memory of a patient by the presentation of pairs of flashes. As shown in the waveform A of FIG. 3, pairs of flashes are presented to the patient and the evoked responses of the patient are recorded at points 21, 22, 23, 24, 25 and 26. Waveform A shows the normal behavior of a patient since every evoked response corresponds to the application of a respective visual stimulus. Waveform B of FIG. 3 shows visual stimuli and the respective responses at points 31, 32, 33, 34 and 35. At point 36 no visual stimulus was presented, but the

patient's short-term memory has the expectation of a flash and therefore shows the same response as if the visual stimulus occurred. Waveform C of Fig. 3 shows visual stimuli and the respective responses at points 41, 42, 43, 44 and 45. Like waveform B, no visual stimulus was presented at point 46. However, in contrast to waveform B, waveform C does not show a response of the patient at point 46. This abnormal response indicates the absence of short-term memory, which may be associated with brain damage.

Furthermore, instead of pairs of flashes other suitable patterns may be used according to John. For example, a flash and a click sound may constitute a pair of stimuli. Like FIG. 3, the brain wave can be examined for the presence or absence of the expectancy of the omitted visual stimulus from the last pair of stimuli.

The invention and John therefore have in common that both the invention and John use complex stimuli. However, the complex stimuli disclosed by John differ from the inventive complex stimuli. In John a complex stimulus consists of two consecutive flashes or a flash and successive click sound. By contrast, the invention as defined in claim 1 uses a periodic succession of visual, acoustic or tactile pulses as a first stimulus in order to control the phase dynamic of the neuronal rhythmic activity of the patient. This first stimulus is followed by a second stimulus which is a visual, acoustic or tactile pulse to desynchronize the

neuronal rhythmic activity. Both stimuli are completely different from the stimuli described by John. Furthermore, John does not mention the use of visual and acoustic stimuli to control the phase dynamic of a physiological and/or pathological neuronal rhythmic activity and to desynchronize the neuronal rhythmic activity subsequently.

The succession of stimuli disclosed by John is not even a periodic succession of stimuli. As can be seen from the waveform A of FIG. 3 the interval between the evoked responses 21, 22 and 23, 24 is different from the interval between the evoked responses 23, 24 and 25, 26. Since each of the evoked responses corresponds to a preceding stimulus and the evoked responses do not show a periodic succession, the presented stimuli are also not periodic. We therefore believe that the subject matter of claim 1 is not anticipated by John.

Thus it is clear that John discloses a different system and that the principal rejection in this case must be withdrawn. As John does not anticipate the instant invention, the \$102 rejection on this reference alone must fall and the \$103 rejections relying on John also are incorrect. Allowance of all claims is in order.

If only minor problems that could be corrected by means of a telephone conference stand in the way of allowance of this

case, the examiner is invited to call the undersigned to make the necessary corrections.

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Enclosure:                      None.